This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 10—Food Safety and Meat Inspection

ORDER OF RULEMAKING

By the authority vested in the Director of Agriculture under section 265.020, RSMo 2000, the director amends a rule as follows:

2 CSR 30-10.010 Inspection of Meat and Poultry **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2009 (34 MoReg 1175). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.410, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-2.020 Meetings and Hearings **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2009 (34 MoReg 1175–1176). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 16, 2009, and a public hearing on the proposed rescission was held June 16, 2009. No written comments were received and no one appeared at the hearing to offer comments.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 1, 2009 (34 MoReg 659–660). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended May 1, 2009, and a public hearing on the proposed rule was held May 1, 2009. Timely written comments were received from Union Electric Company, d/b/a AmerenUE; Renew Missouri; The Empire District Electric Company; Missouri Solar Applications, LLC; and Missouri Valley Renewable Energy, LLC. In addition, legal counsel for the staff of the Missouri Public Service Commission; the Office of the Public Counsel; Union Electric Company, d/b/a AmerenUE; and Renew Missouri offered comments at the hearing. Vaughn Prost, CEO of Missouri Solar Applications, LLC; Henry Rentz, President of Missouri Valley Renewable Energy, LLC; and Eric Swillinger with Missouri Solar Living also offered comments at the hearing. The comments both opposed and supported various aspects of the proposed amendment

COMMENT #1: Insurance Requirements: The current net metering rule requires customer-generator systems of ten kilowatts (10 kW) or less to carry no less than one hundred thousand dollars ($100,000) of liability insurance coverage. Systems of greater than ten kilowatts are required to carry one (1) million dollars of liability insurance coverage. The amendment would eliminate the liability insurance requirement for systems of less than ten kilowatts (10 kW). The amount of liability insurance required for systems greater than ten kilowatts (10 kW) would be reduced to one hundred thousand dollars ($100,000).

The Empire District Electric Company filed a written comment urging the commission to retain the liability insurance requirements found in the current rule. It believes reducing or eliminating the liability insurance requirements would expose the public to the risk of injury or death without requiring the customer-generators to be financially responsible for the consequences of their actions.

Union Electric Company, d/b/a AmerenUE, indicates general support for the amendment. However, it urges the commission retain the

one (1) million dollar liability insurance requirement for generator-systems of greater than ten kilowatts (10 kW). AmerenUE argues systems of that size are not likely to be installed for small residential customers, and thus, owners of such systems are likely to have the means to obtain that level of insurance to cover their potential liability.

Renew Missouri and the Office of the Public Counsel support the elimination of the liability requirement for generator-systems of ten kilowatts (10 kW) and less. Renew Missouri does not oppose the one hundred thousand dollar ($100,000) liability insurance requirement for systems greater than ten kilowatts (10 kW). Public Counsel takes no position on that requirement.

Henry Rentz of Missouri Valley Renewable Energy, LLC, and Vaughn Prost of Missouri Solar Applications, LLC, install residential solar energy systems. They contend such systems are safe and no additional insurance should be required. Consequently, they support the elimination of the liability insurance requirement for generator-systems of ten kilowatts (10 kW) and less. Mr. Rentz also urged the commission to eliminate the liability insurance requirement for generator-systems smaller than one hundred kilowatts (100 kW). Mr. Prost and Eric Swillinger of Missouri Solar Living contend that no liability insurance should be required for any customer generator-system of any size.

RESPONSE: Section 386.890.6(2), RSMo Supp. 2008, the Net Metering and Easy Connection Act passed by the general assembly in 2007, provides that customer-generators installing systems of ten kilowatts (10 kW) or less shall not be required to purchase additional liability insurance. Therefore, the commission must amend the regulation to remove the insurance requirement for generator-systems of ten kilowatts (10 kW) or less to comply with the dictates of the statute.

Section 386.890.6(3)(b), RSMo Supp. 2008, gives the commission authority to require owners of generator-systems greater than ten kilowatts (10 kW) to purchase additional liability insurance. However, the commission does not want to discourage the installation of such systems by imposing a burdensome insurance requirement. Empire and AmerenUE did not present arguments compelling enough to convince the commission that a requirement for one hundred thousand dollars ($100,000) in additional liability insurance for generator-systems greater than ten kilowatts (10 kW) would be insufficient to protect the public. Nevertheless, the commission believes substantial liability insurance coverage for these larger generator-systems is necessary. While residential homeowners may have generator-systems of ten kilowatts (10 kW) or less installed, larger systems are likely to be installed for larger commercial operations. Such commercial operators are capable of finding and affording the additional liability coverage. The commission will leave the liability insurance requirement for generator-systems of greater than ten kilowatts (10 kW) at one hundred thousand dollars ($100,000). No change to the amendment is made as a result of this comment.

COMMENT #2: Liability Language in the Interconnection Agreement: The current net metering rule, 4 CSR 240-20.065(7), requires a customer-generator and electric utility to enter into an interconnection agreement in a form established in the rule. The commission's amendment would add a sentence to that form agreement advising customer-generators, including those with systems of less than ten kilowatts (10 kW), that they may have legal liabilities for personal injuries or property damage that would not be covered under their existing insurance policies. In addition, the amendment to subsection 4 CSR 20.065(4)(B) requires any tariff or contract offered by a utility to a customer-generator to include a warning about the customer-generator's potential liability and the potential lack of coverage for that liability under the customer-generator's existing insurance policy.

Renew Missouri, as well as Public Counsel, Mr. Rentz, and Mr. Prost, opposes the inclusion of this language in the form agreement, as well as in tariffs and contracts. They are concerned that the warning language would scare-off customers who are considering the installation of a generation system, thereby erecting an unnecessary barrier to what is supposed to be an easy connection. Renew Missouri further points out that the Net Metering and Easy Connection Act (subsections 386.890.16 & .17, RSMo Supp. 2008) specifically establish that manufacturers, sellers, and installers of units used by customer-generators may be held liable for the negligent acts, but makes no mention of the liability of the customer-generators. Renew Missouri contends there is no reason for the commission's regulation to "harp on the remote possibility of damage resulting from net-metered systems when it is not even mentioned in the statute." Public Counsel adds that the commission should not be offering an advisory opinion in its rule about what "the law may and may not be about liability."

RESPONSE: The commission is not trying to scare customer-generators away from making the easy connection contemplated by the controlling statute. However, customer-generators should be made aware that they might not have insurance coverage for whatever liability risk they face. It is then up to the customer-generator to decide whether the system they are installing is safe enough for them to willingly take on that risk. The commission will not remove the challenged language from the amended rule. No change to the amendment is made as a result of this comment.

COMMENT #3: Improper Claim of Authority: Public Counsel expresses concern that in submitting the proposed amendment to the secretary of state, the commission cited section 386.887, RSMo Supp. 2007, as its authority for promulgating the amendment. Public Counsel correctly points out that that section was repealed in 2007 and could not be authority for this rulemaking.

RESPONSE: Public Counsel's concern is noted. Fortunately, that error was corrected before the proposed amendment was published in the *Missouri Register*. No change to the amendment is made as a result of this comment.

COMMENT #4: Improper Reference to Cooperatives: Staff raised a concern about a reference in the amendment to tariffs or contracts offered by a utility *or cooperative*. Staff explained that the Consumer Clean Energy Act had given the commission authority over rural electric cooperatives regarding net metering. However, the Net Metering and Easy Connection Act repealed that act in 2007, and the current statute does not give the commission authority over such cooperatives. For that reason, staff advises the commission to remove the references to cooperatives from the amendment. Public Counsel and Renew Missouri expressed support for the change proposed by staff.

RESPONSE AND EXPLANATION OF CHANGE: Staff's concern is well taken. The commission will remove the references to cooperatives from the amendment.

4 CSR 240-20.065 Net Metering

(4) Customer-Generator Liability Insurance Obligation.

(B) Customer-generator systems ten kilowatts (10 kW) or less shall not be required to carry liability insurance; however, any tariff or contract offered by a utility to customer-generators shall contain language stating that absent clear and convincing evidence of fault on the part of the retail electric supplier, those retail electric suppliers cannot be held liable for any action or cause of action relating to any damages to property or persons caused by the generation unit of a customer-generator or the interconnection thereof pursuant to section 386.890.11, RSMo Supp. 2008. Further, any tariff or contract offered by utilities to customer-generators shall state that customer-generators may have legal liabilities not covered under their existing insurance policy in the event the customer-generator's negligence or other wrongful conduct causes personal injury (including death), damage to property, or other actions and claims.